



## RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO THE BOARD OF WATER SUPPLY.

WHEREAS, Section 7-101, Revised Charter of the City and County of Honolulu 1973, as amended ("Charter"), establishes a semi-autonomous City agency known as the Board of Water Supply; and

WHEREAS, the Board of Water Supply is overseen by a seven-member policy-making board, including two ex officio members, the Chief Engineer of the Department of Facility Maintenance, and the Director of the State Department of Transportation; and

WHEREAS, the agency known as the Board of Water Supply has broad powers, duties and functions including: (1) controlling all water systems of the City and County of Honolulu ("City"), such as "water rights and water sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water systems"; (2) "full and complete authority to manage, control and operate the water systems and properties used or useful in connection with such water systems"; and (3) devising "ways and means for the economic distribution and conservation of water"; and

WHEREAS, the policy-making board of the Board of Water Supply ("BWS Board") has significant powers, duties and functions including: (1) appointing and removing the head of the Board of Water Supply, known as the manager and chief engineer; (2) creating and abolishing positions within the Board of Water Supply; (3) determining the rates and charges for the furnishing of water and water services in the City; (4) issuing revenue bonds under the name of the Board of Water Supply; (5) acquiring real property by eminent domain, purchase, lease or other means, in the name of the City, for water systems purposes; and (6) modifying and approving the annual operating and capital budgets of the Board of Water Supply; and

WHEREAS, although decisions by the BWS Board regarding budgetary expenditures and condemnation of real property significantly affect water users, ratepayers, property owners, and the general public, the members of the BWS Board are not directly accountable to the public because they are appointed, not elected officials; and

WHEREAS, the Council finds that greater public scrutiny of BWS Board decisions relating to budgetary expenditures and condemnation of real property are



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needed in order to ensure that the Board of Water Supply and BWS Board are accountable to the people they serve; and

WHEREAS, the Council is an elected body that can provide appropriate checks and balances on the foregoing actions by the BWS Board; and

WHEREAS, pursuant to Article XI of the Charter, and Chapter 3, Articles 6 and 8 of the Revised Ordinances of Honolulu 1990, as amended, City standards of ethical conduct apply to elected and appointed officers and employees of the City, and should apply without ambiguity to the BWS Board and the officers and employees of the Board of Water Supply; and

WHEREAS, Mayoral approval is required for any Charter amendment proposed by the Council at a general election held in a year ending in a "4"; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the ballot at the 2014 general election:

"Shall the Revised City Charter be amended to require that decisions of the Board of Water Supply to condemn land be subject to review and approval by the City Council, to require that proposed annual operating and capital budgets of the Board of Water Supply be subject to appropriation and amendment by the City Council, and to clarify that City ethical standards of conduct apply to the Board of Water Supply and its policy-making board?"

2. That Section 7-105 of the Revised Charter of the City and County of Honolulu 1973, as amended, is amended to read as follows:

**"Section 7-105. Powers, Duties and Functions of the Board of Water Supply --**

The board of water supply shall:

(a) Appoint and remove the manager and chief engineer of the department. The manager and chief engineer shall be a registered engineer who shall have had a minimum of five years of training and experience in waterworks activities or related fields, at least three years of which shall have been in a responsible administrative capacity.

(b) Fix the salary of the manager and chief engineer.



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- (c) Have the authority to create and abolish positions.
- (d) Determine the policy for construction, additions, extensions and improvements to the water systems of the city which shall include a long range capital improvement program covering a period of at least six years which shall be adopted after consultation with the director of planning and permitting and which may be amended or modified by the board from time to time.
- (e) Have the authority to acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the water systems of the [city.] city; provided, however that prior to commencing such action, the board shall submit to the council, in writing, a list of the parcels and areas to be acquired. The board shall have the right to proceed with such condemnation action so long as the council does not adopt a resolution objecting to the condemnation within 45 days of such notification. Alternatively, after receipt of the notice from the board, the council may approve, upon a single reading of a resolution, such acquisition by eminent domain. The council shall take no action to acquire real property or any interest therein for the department without the written approval of the board.
- (f) Have the authority to recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the department. The council shall take no action to dispose of such property without the prior approval of the board, and all proceeds from the disposition of such property shall be paid into the special fund of the department.
- (g) Have the authority to enter into arrangements and agreements, as it deems proper for the joint use of poles, conduits, towers, stations, aqueducts, and reservoirs, for the operation of any of the properties under its management and control.
- (h) Have the authority to issue revenue bonds under the name of "board of water supply."
- (i) [Modify, if necessary, and approve and adopt annual operating and capital budgets submitted by the manager and chief



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engineer.] Prepare proposed annual operating and capital budgets for the department for appropriation by the council in accordance with Section 7-120 of this charter.

(j) Prescribe and enforce rules and regulations having the force and effect of law to carry out the provisions of this article of the charter, including: (1) the regulation of water systems and necessary appurtenances for subdivisions and other properties and requirements for adequate water supply and storage facilities for domestic use and fire protection, (2) the prevention of waste and pollution of water, (3) the manner in which new wells or shafts may be bored, drilled or excavated, cased and capped or recased, (4) the manner in which wells or shafts shall be maintained, controlled and operated to prevent waste of water or the impairment of potability, (5) the limitation to beneficial uses of all water, (6) in times of shortage or threatened shortage of water or of danger to potability of the water of any ground water basin or area by overdraft on such basin, the restriction of the drawing of water in all wells supplied from such basin on a basis proportionate to the proper and beneficial uses served by them respectively, and (7) other matters having for their object the proper conservation and beneficial use of the water resources available for the city.

(k) Hear appeals from [the] any order of the manager and chief engineer refusing, suspending or revoking any permit for the sinking, drilling or reopening of any well or shaft for the development of underground water supply."

3. That Article VII, Revised Charter of the City and County of Honolulu 1973, as amended ("Board of Water Supply"), is amended by adding a new Section 7-120 to read as follows:

**"Section 7-120. Annual Budget for the Board of Water Supply --**

1. The department's proposed operating and capital budgets for the ensuing fiscal year, together with a six-year capital improvement program, shall be prepared by the board, and shall be submitted to the council and available for public review not later than one hundred twenty days prior to the end of the current fiscal year. The proposed operating and capital budgets shall be in the same form prescribed by ordinance for the annual executive operating and capital budget bills, and shall be subject to the same public notice and public hearing requirements prescribed in Section 9-104.1 of this charter relating to the



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council's consideration of the annual executive operating and capital budget bills. The council may add new items to, or delete or amend items in, the department's proposed operating and capital budget bills.

2. If the council fails to pass on third reading the annual board of water supply budget bills on or before the fifteenth day of June of the fiscal year currently ending, or if after veto by the mayor, the council fails to pass the budget bills on final reading within the time prescribed in Section 3-203.1 of this charter, which may extend beyond July 1 of the ensuing fiscal year, the operating and capital budget bills as submitted by the department shall take effect as of July 1 of the subject fiscal year. Section 3-203.2 of this charter shall not apply to the annual board of water supply budget bills.

3. Immediately following the enactment of the board of water supply budget ordinances, the manager and chief engineer of the department shall submit to the director of budget and fiscal services a schedule showing the expenditures of the department anticipated for each quarter of the fiscal year. The schedule shall not require the approval nor can it be altered by the mayor or the council, and the department may proceed without any other authority to incur obligations and make expenditures after the schedule has been submitted. Appropriations for the department's operating budget shall be considered valid only for the fiscal year for which made, and any part of such appropriation that is not encumbered or expended shall lapse at the end of the fiscal year. Appropriations for the department's capital budget shall be considered valid only for the fiscal year for which made and for twelve months thereafter, and any part of such appropriation that is not encumbered or expended shall lapse twelve months after the end of the fiscal year.

4. Amendments or supplements to the annual board of water supply budget ordinances may be submitted by the department and considered by the council under the same public notice and public hearing requirements prescribed for the enactment of the annual board of water supply budget ordinances, and subject to the same restrictions applicable to the annual executive operating and capital budget ordinances under Sections 9-105.2(a) and (b) of this charter. Such amendments or supplements shall only be made to meet contingencies that could not have been anticipated when the department's budget ordinances were passed.

5. Appropriations to fund the activities of the department shall only be made through the annual board of water supply operating and capital budget



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ordinances enacted pursuant to this section, and permitted amendments or supplements thereto."

4. That Section 7-109 of the Revised Charter of the City and County of Honolulu 1973, as amended, is amended to read as follows:

**"Section 7-109. [Rates,] Rates and Revenues [and Appropriations] --**

The board shall have the power to fix and adjust reasonable rates and charges for the furnishing of water and for water services so that the revenues derived therefrom shall be sufficient to make the department self-supporting. Such revenues shall be sufficient to meet all necessary expenditures, including expenditures for: (a) operating and maintenance expenses; (b) repairs, replacements, additions and extensions; (c) accident reserve, pension charges and compensation insurance; (d) payment of principal and interest on all bonds, including reserves therefor, issued for the acquisition or construction of waterworks and extensions [~~thereto,~~] thereto; and (e) reserve funds under Section 7-112 of this charter. All water furnished to the city or any department thereof shall be charged to the respective departments and collected at the regular rates established by the board. There shall be no free water, except as authorized by the state. [The board may make appropriations for the purposes stated in this section of the charter.]"

5. That Section 7-107 of the Revised Charter of the City and County of Honolulu 1973, as amended, is amended to read as follows:

**"Section 7-107. Personnel Administration; Centralized Purchasing; Auditing; Pension; Standards of Conduct --**

1. The department shall be subject to the civil service provisions of this charter.
2. The department shall be subject to the centralized purchasing and disposal of personal property provisions of this charter.
3. The department shall come within the purview of the performance audit conducted by the managing director and such audits as may be required by the council or conducted by the city auditor.
4. Pensions for officers and employees shall be governed by law.



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5. Article XI of this charter relating to standards of conduct shall be applicable to the department and its board."
6. That in Sections 2 through 5, Charter material to be deleted is bracketed and new Charter material is underscored. When revising, compiling or printing these Charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, as amended, the Revisor of the Charter need not include the brackets, the bracketed material or the underscoring.
7. That if these Charter provisions are amended by any other Charter amendment(s) approved by the electors in the 2014 general election, the Revisor of the Charter, in revising, compiling or printing the Revised Charter: (a) May designate or redesignate articles, chapters, sections or parts of sections, and rearrange references thereto; and (b) Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved. The Revisor of the Charter may also change capitalization or the form of numbers and monetary sums for the sake of uniformity.
8. That upon adoption of this resolution by the Council and approval by the Mayor, the City Clerk be and is hereby directed:
- A. To prepare the necessary ballots with the question contained in this resolution and with spaces for "yes" and "no" votes on the question for presentation to the electors at the 2014 general election. The City Clerk may make technical and non-substantive changes to the form of the question presented in order to conform it to the form of other Charter amendment questions presented to the electors at the same election; and
- B. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2014 general election.



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9. That upon approval of the Charter amendment question posed in this resolution by a majority of the electors voting thereon, as duly certified, the Charter amendments in the Revised Charter proposed in Sections 2 through 5 shall take effect on January 2, 2015; provided that any action in eminent domain filed by the Board of Water Supply with the courts prior to the effective date of this Charter amendment may proceed without the Board of Water Supply having to obtain Council approval of such action. Charter amendments relating to new budget provisions requiring Council appropriation through Board of Water Supply capital and operating budget ordinances shall apply to Board of Water Supply fiscal year 2015 to 2016 operating and capital budgets and thereafter.

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DATE OF INTRODUCTION:

**AUG 2 2013**

Honolulu, Hawaii

Councilmembers

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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KIRK CALDWELL, Mayor  
City and County of Honolulu